

REMARKS

Formal Matters

Claims 1-15 are all the claims pending in the application. With this Amendment, Applicant amends Claims 2-5, 8, and 9 into independent form. No new matter is added.

In the Advisory Action of April 28, 2005, the Examiner indicates that the Amendment under 37 C.F.R. § 1.116, filed on March 11, 2005, has been entered.

Request for Examiner Interview

In view of the continued rejection of Claims 1, 6, 7, 10, and 15, Applicant hereby requests a personal interview with the Examiner. The Examiner is respectfully requested to contact Applicant's representative at the number listed below.

Allowed Claims and Allowable Subject Matter

In the Advisory Action of April 28, 2005 and the final Office Action of December 13, 2004, the Examiner indicates that Claims 11-14 are allowed and that Claims 2-5, 8, and 9 contain allowable subject matter and would be allowed if rewritten into independent form including the limitations of the claims from which they depend.

With this Amendment, Claims 2-5, 8, and 9 are rewritten into independent form including the limitations of the claims from which they depend. Applicant therefore respectfully requests the allowance of Claims 2-5, 8, and 9.

Claims 1, 6, 7, 10, and 15

Claims 1, 6, 7, 10, and 15 stand rejected under 35 U.S.C. § 102(e) as allegedly anticipated by Nakajima, U.S. Patent No. 6,701,011 ("Nakajima"). Applicant respectfully

traverses this rejection. Applicant respectfully resubmits the arguments presented in the Amendment under 37 C.F.R. § 1.116, filed March 11, 2005, and additionally submits the following:

As previously set forth in Applicant's Amendments of August 19, 2004 and March 11, 2005, according to the present invention, portions or "objects," which are smaller elements within a larger color image are separately selected from the image as a whole for color correction. (Independent Claims 1, 7, and 10 each recite carrying out floor correction "upon a specific object in a color image." Claim 15 recites "wherein the color correction parameters are obtained based on only a range of color distribution of a specific object.") For example, the skin color of a person depicted in an input image may be specifically selected as the object for correction within the larger image, such that only the skin color is corrected, while the color in the remaining portions of the larger image remain unaffected. In contrast, each embodiment of Nakajima clearly describes color correction being applied to a single image as a whole.

In response to this argument, the Examiner asserts:

Figure 8 shows a plurality of images which includes 96 and 97 and the thumbnail of the images (91). At the top of Figure 8 is an object 911. The object may consist of a photograph, text or graphics see object 910. Hence the text portion or any of the other sub-categories, is chosen as the region or area that is less than the entire image. For example, there may be text composed in a small portion of the image superimposed over a graphic image or photographic image. (Advisory Action, p. 2).

The Examiner further asserts:

Figure 8, upon which this section is illustrated, shows that there are three objects within the images 96 and 97, which include graphic, photographic, and text images. Hence these objects are part of the entire image and not the image itself. (Advisory Action, p. 2).

Applicant submits, however, that the Examiner has mis-interpreted Nakajima. As described with reference to Figure 8 and to Figure 4B, Figure 8 is an adjustment screen presented to a user so that the user may determine how an object is to be adjusted. (Col. 10, lns. 61-62). In field 911, the user selects the type of object which is to be adjusted. (Col. 10, lns. 62-64). As described, the field 911 is used to indicate whether the object which is to be adjusted is a photograph, graphics, or text. Image 96 is a display of the image to be adjusted in its original (non-adjusted) form. (Col. 8, lns. 63-65). Image 97 is a display of the image to be adjusted in its currently-adjusted form. (Col. 18, lns. 4-7). Adjustment area/thumbnaill 91 is a display of the image to be adjusted in its currently-adjusted form 92, surrounded by 8 displays of the image to be adjusted in various adjusted states 93. (Col. 18, lns. 2-4). The user, therefore can select one of the images 93 which, once selected, then becomes the currently-adjusted image displayed as image 92 and image 97. Therefore, images 96, 97, 92, and 93 are all displays of the same original image in different states of adjustment.

Therefore, contrary to the assertions of the Examiner, there is no disclosure or suggest in any part of Nakajima that the field 911, illustrated in Figure 8, is used to select a smaller portion of a larger image such that the smaller portion is adjusted without equally adjusting the larger image. Further, Figure 8 does not show three objects within images 96 and 97. Rather, Figure 8 merely illustrates that the single image, displayed in various states of adjustment at 96, 97, 92, and 93, can itself be one of a photograph, graphics, or text. The writing (“Original” and “Edit”) below displayed images 96 and 97 is not a part of the image, but rather, these are merely labels

on the display screen that indicate to the user that image 96 is a display of the original (non-adjusted) image and that image 97 is a display of the currently-adjusted image.

The Examiner further asserts:

Moreover, col. 11, lines 15-49 further teaches using color processes adjustments according to the selected objects. For example in figure 5, step 65 discriminates if the object is an image. At step 68 it is discriminated whether the object is graphic and at step 69 the object is discriminated as being text. According to how the object was discriminated, each object has a unique color adjusting color parameter that is used for that object.

Again, Applicant submits that the Examiner has misinterpreted Nakajima. As the Examiner asserts, Figure 5 of Nakajima includes steps 65, 68, and 69 in which it is determined whether the object to be adjusted is an image, graphics, or text. However, as discussed above, this is a determination of whether the object as a whole is an image, graphics, or text. There is no disclosure or suggestion in Nakajima that any object to be adjusted includes an image, graphics, and test, as suggested by the Examiner.

Additionally, regarding Claims 1, 7, and 10, Applicant submits that Nakajima fails to disclose or suggest representative color extracting means, as claimed, for extracting a representative color from a given input image. In response to this argument, the Examiner asserted that process parameter switch 132 of Nakajima disclosed this limitation. (Advisory Action, p. 3-4).

As described in Nakajima, the process parameter switch 132 switches the address information of a current image and of eight surrounding images based on the adjustment of the current image in response to user input. (Col. 9, lns. 18-23). In other words, when a user, in view of the adjustment screen of Figure 8, for example, selects one of the surrounding images 93,

from the thumbnail section 91, to be the currently-adjusted image, the selected image then becomes the new currently-adjusted image which is displayed at 97 and 92. (Col. 11, lns. 16-27). therefore, the surrounding images 93 of the thumbnail section 91 are also adjusted. As described, the adjustment that is performed on the original image 96 can be an adjustment of “tint,” “value/contrast,” “chroma,” or “density.” (Col. 13, lns. 1-6). However, the selection of one of the surrounding images 93 and the corresponding adjustment of the “tint,” “value/contrast,” “chroma,” or “density” of the image, is unrelated to extracting a representative color from a give input (original) image, as claimed.

Further, regarding Claims 1, 7, and 10, Applicant submits that Nakajima fails to disclosure or suggest a color correction parameter determining means for determining, from memory content, an optimum color correction parameter, as claimed. Regarding this limitation, the Examiner asserts:

Nakajima teaches color adjusting parameters stored in a color parameter memory 24, see col. 11, lines 40-48. Moreover, col. 12, lines 5-7 teaches that the color adjustment is possible on an object basis, and the user performs adjustment more in detail and obtains an optimum output.

As described the color parameter memory 24 is referred to determine the adjustment parameters used to create and display the surrounding images 93 of the thumbnail section 91. It is from these surrounding images that the user may select an adjustment to be performed. (Col. 10, ln. 61-col. 11, ln. 49). As acknowledged by the Examiner, it is the user who performs adjustment in detail and who determines the optimum color adjustment. There is no disclosure or suggestion in Nakajima of determining an optimum color correction parameter from memory, as claimed.

Applicant also respectfully reminds the Examiner that rejections under 35 U.S.C. § 102 are proper only when the claimed subject matter is identically disclosed or described in the prior art. Thus the reference must clearly and unequivocally disclose every element and limitation of the claimed invention. The Federal Circuit holds that a claim is anticipated only if each and every element as set forth in the claim is found either expressly or inherently in a single prior art reference.¹ In fact, the identical invention must be shown in as complete detail as contained in the claim.² Applicant submits that there is no express disclosure in Nakajima of any means for determining a color correction parameter from memory content. Further, such disclosure is not inherent in the disclosure of Nakajima, and, even assuming *arguendo* that a user of the Nakajima apparatus could access a color correction memory, the mere idea that a user *could* refer to a memory in the selection of a color correction parameter, fails to render such a disclosure inherent.

Therefore, in view of at least the above, Applicant submits that Nakajima fails to anticipate the present invention as recited in Claims 1, 6, 7, 10, and 15 and respectfully requests that the rejection thereof be reconsidered and withdrawn.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the

¹ *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)

² *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)


Amendment under 37 C.F.R. § 1.114(c)
U.S. Application No. 09/666,801

Q60955

Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

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